

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE JURISDICTION

CRIMINAL WRIT PETITION NO. 1012 OF 2007

Smt. Pooja Sanjeev Agrawal ..Petitioner

Vs.

State of Maharashtra and ors. ..Respondents

Mr. Rishi Bhuta for petitioner.
Ms. S.V. Gajare, APP for State.
Respondent no.2 present in person.

CORAM: B.H. MARLAPALLE, J.

Date : July 30, 2007.

P.C.:

1. Rule. Rule made returnable forthwith.

2. Heard Mr. Bhuta the learned counsel for the petitioner-wife who is praying for quashing the proceedings in C. C. No. 617/PW/2005 pending on the file of the learned Metropolitan Magistrate, 26th Court, Borivali, Mumbai. The said case arises from the complaint filed by the petitioner for the offences punishable under Sections 498-A and 406 read with Section 34 of IPC against the present respondent nos.2

to 7.

3. It appears that during the pendency of the criminal case, the petitioner-wife and the respondent no.2-husband have approached the Family Court at Bandra and filed M.J. Petition No. 667 of 2007 seeking divorce by consent under Section 13-B of the Hindu Marriage Act, 1955 and in the same petition they have filed consent terms on 9/5/2007. As per the said consent terms the respondent no.2 has deposited an amount of Rs.10,50,000/- with the Family Court and the application for divorce by consent is kept for orders on 12/11/2007. The petitioner-wife, therefore, prays for quashing the proceedings against the respondent nos.2 to 7 and initiated on the basis of her complaint.

4. The respondent nos.2 to 7 have filed an affidavit and stated on oath that the respondent no.2 will be bound by the consent terms and the respondent nos. 3 to 7, though not parties to the said consent terms dated 9/5/2007, they declared that the said terms will be binding on them as well. The respondent

no.2-husband is present before the court and he has stated that he shall not withdraw from the consent terms dated 9/5/2007 till the decree of divorce is granted on the joint application submitted by the spouses. The oral undertaking as well as the undertaking furnished by way of an affidavit is hereby noted.

5. By following the law laid down by the Supreme Court in the case of B.S. Joshi and ors. vs. State of Haryana and anr. [2003 SCC (Cri) 848], the petition is allowed and Rule is made absolute in terms of prayer clause (d).

(B.H. Marlapalle, J.)